

## Profile of a Service: Filing a Corporation

Your home-based business has grown, shown itself profitable and is ready for expansion. You want to incorporate, but how do you do it?

You must decide what the purpose of your business will be and how it will be organized. If your business is based in Arkansas, you are considered a domestic corporation. If you are based in another state or another country and want to expand your business into Arkansas, you are a foreign corporation.

The Arkansas Secretary of State's office does not provide legal advice, so you will need to consult an attorney or certified public accountant to determine how you should structure your business. Some helpful information about the various kinds of business entities may be found on our website, [www.sos.arkansas.gov](http://www.sos.arkansas.gov), under the Corporate Information section of the Business/Commercial Services tab.

Forms are available on our website under the Entity Forms section, or you may request these forms by mail. Most filings can be completed online, or you may download the document and mail the completed form to the Arkansas Secretary of State's office.

The initial filing process consists of filing the articles of incorporation and paying the \$50 filing fee. This can be done by printing the forms from the website and mailing them to the Secretary of State's office, or by filing and paying online at a lower cost.

A corporation created for public benefit, for mutual benefit for its members, or for religious purposes is called a nonprofit corporation. An organization usually must be a nonprofit corporation before it can obtain tax-exempt status from the Internal Revenue Service; however, being a nonprofit does not guarantee that a corporation will gain tax-exempt status from the IRS.

(See **CORPORATION** on page 3)

## Guide helps clarify Arkansas business processes

Arkansas Secretary of State Charlie Daniels announced that the Business and Commercial Services division has published *Doing Business in Arkansas*, a guide to establishing various kinds of businesses.

"I'm very pleased that we can provide this information both to local entrepreneurs and established businesses planning to expand," Daniels said. "I anticipate that this publication will be helpful in many aspects of conducting business in the Natural State."

*Doing Business in Arkansas* walks through the process of establishing a business entity, beginning with selecting the appropriate kind of business — ranging from a sole proprietorship to a limited liability company — and explaining what forms are needed for and fees are associated with each kind of entity.

The guide also explains how existing entities can change their corporate registration, how businesses from other states or other countries can gain authorization to conduct business in Arkansas, and how to file a trade mark or service mark.

"Ever since taking office, we have planned to offer a publication with the kind of information available in this book. *Doing Business in Arkansas* should answer many of the questions the Business and Commercial Services division receives on a daily basis," Daniels said.

To obtain a free copy of *Doing Business in Arkansas*, contact the Business and Commercial Services division at 501-682-3409 or 888-233-0325. Staff will also offer these booklets at business expos and other public appearances.



Secretary of State Charlie Daniels

This issue of *Arkansas Inc.* introduces a new feature to better acquaint you with what our Business and Commercial Services division does. Each quarter we'll recognize a different area of BCS in our "Profile of a Service," beginning in this edition with the process of filing a corporation.

We need your help! The Secretary of State's office has thousands of nonprofit organizations on record, but unfortunately we have no way of determining which of these listings are still accurate and which are obsolete. We're asking nonprofit organizations across Arkansas to update us any time their officer and/or contact information changes, so we can be more efficient and maintain more accurate records. You'll find more information on page 2.

To accommodate Arkansas notaries public, we have expanded our class offerings and taken our notary seminars on the road, scheduling them in larger population centers across the state. Since we began these free seminars in August 2005, we've had over 500 commissioned

(See **LETTER** on page 2)

**Business and Commercial Services****FAQ** ***Frequently Asked Questions***

**Q. What paperwork do I need to file with the Secretary of State's office to dissolve my company?**

**A.** The current year's taxes, the final report and the articles of dissolution must be filed to dissolve.

**Q. We didn't receive our franchise tax form this year. Why?**

**A.** The most likely answer is that the address that is on the initial filing with the Secretary of State's office has changed and has not been updated. A letter with the corporate name and the change, signed by an officer, can update this information and insure that tax forms are received in a prompt manner.

**Q. How do I order copies of my articles?**

**A.** Copies can be ordered with our corporate records department. These copies can be regular copies or certified copies.

**Q. I looked my business up on your website and the status showed as**

**"revoked." What do I need to do to get back in good standing?**

**A.** The franchise tax requirements for all past-due years must be filed. These taxes can be filed online, or the necessary forms can be downloaded from our website.

**Q. Am I required to renew my corporation each year?**

**A.** The only requirement for a corporation is the filing of the annual report and paying franchise taxes.

**Q. How long does it take to process corporate filings?**

**A.** Provided all forms are correctly completed, filing will be completed within 24-48 hours after receipt if mailed. If you file online before 3 p.m., the filing will be processed that day.

**Q. How do we change the address of our principal office?**

**A.** Simply mail our office a letter signed by a corporate officer to notify us of the change. This filing is free.

**Q. We have a complaint on a corporation. Do we file the**

**complaint with the Secretary of State's office?**

**A.** Complaints should be filed with the Arkansas Attorney General's office.

**Q. I am starting a home-based business. Do I need to register with the Secretary of State's office?**

**A.** You should seek legal advice about what you need to do for your specific business purpose, since all businesses are different. A CPA may also be able to advise you.

**Q. Can you provide me with a company owner's name?**

**A.** No, the Secretary of State's office is not required to know the owners of a company. We do record the registered agent's address, and that name and address are public record.

**Non-profits should update contact information**

Non-profit organizations frequently have changes in officers and contact information over the years. Unfortunately, that information often doesn't reach the Arkansas Secretary of State's office, which can make it difficult for other entities to contact the organization.

There is no charge to update contact information with the Arkansas Secretary of State's office, and only a \$25 fee to change the organization's registered agent. The form for Change of Registered Agent is available online at [www.sos.arkansas.gov](http://www.sos.arkansas.gov), or by calling us at 501-682-3409 or 888-233-0325.

Nonprofit corporations are not required to file an annual report or pay franchise taxes. However, the Arkansas Secretary of State's office requests all nonprofits to file the officer and address information. We have listings

for hundreds of nonprofits that we have learned are now defunct, or for whom we have long-outdated information.

**Need a speaker  
for your next  
meeting?**

**Contact**

**Secretary of State  
Business and  
Commercial Services  
(501) 682-3409**

**LETTER, continued from page 1**

and prospective notaries who have attended the seminar. We'll begin a second round of training in Arkansas communities this fall, so watch for that schedule in the September edition of *Arkansas, Inc.*

We are making progress in the installation of our new software system in the Business and Commercial Services division. This program, from Office Automation Solutions (OAS) will streamline work and allow BCS staff to be more thoroughly cross-trained. The UCC department is still in the testing stages, and the remaining segments of the BCS division will begin development in the coming months.

We announced in the last issue of *Arkansas Inc.* that our BCS Advisory Council had been established and held its first meeting. I'm pleased to tell you that we're currently developing an online message board for the Advisory Council to conduct business and exchange ideas between its semi-annual meetings.

As always, if my staff or I can be of service, I hope you won't hesitate to contact us.

# NOTARY CORNER



Notaries public know that when they sign their name and affix their official seal to a document they have "notarized it." However the term *notarization* is a general term used to encompass the specific authority or duties granted to notaries by the State. This issue of the Notary Corner will cover the specific functions that Arkansas law authorizes notaries public to perform.

The Arkansas Secretary of State commissions notaries public with the power and authority to administer oaths and swear witnesses, to take affidavits and depositions, and to take acknowledgements. In addition, a notary public can also supervise the making of copies and make declarations and protests.

## **Oaths and Swearing Witnesses**

An oath is "a promise (known as swearing) to tell the truth." An oath is administered to an individual preceding that person giving oral or written testimony. A common oath administered in this situation is "I, \_\_\_\_\_, swear to tell the truth, the whole truth, so help me God." If a person objects to "swearing," he or she may "affirm" or "declare" to the truth. These alternatives hold the same weight in the eyes of the law.

An oath may also be administered to a person before he or she assumes

a public or corporate office. While administering oaths for public officials are restricted to specific clerks and judges, oaths for other officers can be administered by notaries public.

## **Affidavits and Depositions**

An affidavit is a written declaration made under oath before a notary public or other authorized officer. Affidavits are used in many ways. They are often used to submit testimony in courts of law or administrative hearings. Affidavits also appear at the end of applications for employment, licenses and permits. The affidavits on these documents usually contain language such as "the foregoing information is true and correct to the best of my knowledge." An affidavit should contain the person's name (affiant), information or a list of statements, some sort of wording indicating the affiant is swearing or affirming the statements are true and correct, and the affiant's signature.

A deposition, similar to an affidavit, is an extrajudicial proceeding at which oral testimony is presented. The oral testimony given under oath is then transcribed or reduced to a written format. Since the adoption of Section 9 of the Rules for the Certification of Court Reporters, effective February 1, 1984, the courts will accept transcripts of depositions only if they are certified by a court reporter.

## **Acknowledgements**

An acknowledgement is a formal statement by a person stating that he or she voluntarily signed a document for

its stated purpose. Acknowledgements appear on many documents by virtue of law and tradition. Arkansas law requires any document that conveys any interest in real property or affects it in law or equity, must have an acknowledgement before it can be "admitted to record." The acknowledgements on these documents must be substantially similar to the form that appears in the Arkansas code. (A.C.A. 16-47-201)

## **Attesting to Copies**

Arkansas law allows notaries to supervise the making of a photocopy and attesting that it is a true and perfect copy of the original. However, the law also notes some exceptions. Notaries cannot attest to a vital record, i.e. birth certificate or death certificate. Nor can they attest to "a public record, if a copy can be made by the custodian of the public record." Examples of these type documents would include: recorded deeds, court orders and articles of incorporation.

## **Declarations and Protests**

The notary laws also allow notaries public to make declarations and protests. These documents, once widely used in the marine navigation and banking industries, are used less often today.

For additional information on these subjects and sample wording for each of the above please contact the Business and Commercial Services Division of the Arkansas Secretary of State's office at 501-682-3409 or 888-233-0325.

## ***CORPORATION, continued from page 1***

Other possible variations of corporate types include the domestic corporation, limited liability company, limited partnership, limited liability partnership, limited liability limited partnership and cooperative.

Corporations conducting business in Arkansas must file an annual report and pay franchise taxes. Nonprofit corporations are not required to pay franchise tax nor to submit an annual report.

A franchise tax registration form is available on our website, [www.sos.arkansas.gov](http://www.sos.arkansas.gov). If an incorporator

completes paperwork by mail and does not send the franchise tax registration form to the Secretary of State's office, the first year's franchise tax forms will be mailed to the registered agent for process of service. If the incorporator files the articles online, he or she will complete the franchise tax registration during the initial filing process.



## Pop Quiz: How Much do You Know About the Arkansas Notary Law?

Which of the following may a notary supervise the making and copying of an original document and attest that the document is a copy of the original document?

- A. Birth Certificates
- B. Death Certificates
- C. Marriage Certificates
- D. Divorce Decree
- E. None of the above

A notary public may notarize documents in adjoining states as long as the document pertains to Arkansas transactions.

- A. True
- B. False

Notaries public may

- A. Administer oaths
- B. Take acknowledgments
- C. Certify affidavits
- D. Certify depositions

- E. Supervise photocopying
- F. All of the above

A notary must register a facsimile signature with the Arkansas Secretary of State if s/he wishes to use it.

- A. True
- B. False

Under what conditions may a faxed or photocopied document be notarized?

- A. Notary recognizes the signature
- B. Notary knows the signer
- C. Document is signed after being faxed or copied
- D. It can never be done

When completing the portion of the acknowledgment below, what should a notary list in blank 1?

*Subscribed and sworn to before me, the undersigned Notary Public, within*

*and for the State of Arkansas and County of \_\_\_\_1\_\_\_\_, this \_\_\_\_ day of \_\_\_\_/\_\_\_\_/\_\_\_\_.*

\_\_\_\_\_  
Notary Public

- A. The county in which the notary is commissioned
- B. The county to which the document pertains
- D. The county in which the signer resides
- E. The county in which the notary is standing

**Answers: E, B, F, A, C, A**

If you didn't know the answers, call 888-233-0325 today to register for the Arkansas Secretary of State's free educational seminars for notaries public. Whether you've been commissioned for years, or are just now applying, you'll find this informative 90-minute class worthwhile.



1401 West Capitol, Suite 250  
Little Rock, AR 72201-1094  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)  
(501) 682-3409

6.2006

**Presort Standard  
U.S. Postage  
PAID  
Little Rock, AR 72201  
Permit No. 2855**

If you wish to receive future issues of *Arkansas, Inc.* electronically, send an e-mail to [arsos@sos.arkansas.gov](mailto:arsos@sos.arkansas.gov). Please use the subject line "Subscribe BCS" and provide a contact name and number for your business.